

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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PATSY JOINNIDES,

Plaintiff,

12-CV-5682 (JS) (AKT)

-against-

**DECLARATION OF
JOSHUA BELDNER
IN SUPPORT OF
PLAINTIFF'S MOTION
TO AMEND THE
COMPLAINT**

FLORAL PARK-BELLEROSE UNION FREE
SCHOOL DISTRICT, BOARD OF EDUCATION OF
THE FLORAL PARK-BELLROSE UNION FREE
SCHOOL DISTRICT,

Defendants.
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JOSHUA BELDNER, an attorney duly admitted to practice before the Courts of the State of New York, who is not a party to this action, declares the following under penalty of perjury:

1. I am an attorney at the Law Office of Steven A. Morelli, P.C. attorneys of record for Plaintiff PATSY JOINNIDES in above entitled action.
2. I am fully familiar with the facts and circumstances set forth herein, by virtue of my representation of Plaintiff, and based upon review of the pleadings, affidavits, discovery, and proceedings had herein, and the file maintained in our firm's office.
3. I submit this Declaration in support of Plaintiff's Motion to Amend the Complaint.

4. Plaintiff commenced this action on November 16, 2012. After Defendants' filed an Answer on December 31, 2012, the parties entered into a Scheduling Order and Case Management Plan.

A. Overview of Discovery

5. On February 11, 2013, Plaintiff served upon counsel for Defendants her First Combined Discovery Demands, which included Interrogatories, and Document Requests.
6. As of May 20, 2013, Defendants failed to provide responses to Plaintiff's discovery demands. As such, on that date, I sent a deficiency letter to counsel for Defendants regarding the outstanding discovery.
7. As of June 3, 2013, Defendants had failed to provide responses to Plaintiff's Interrogatories. As such, on that date, I sent a second deficiency letter to counsel for Defendants regarding the outstanding discovery.
8. As of July 1, 2013, Defendants had failed to provide responses to Plaintiff's Supplemental Document Requests. As such, on that date, I sent a third deficiency letter to counsel for Defendants regarding the outstanding discovery.
9. On July 9, 2013, Defendants responded to Plaintiff's Supplemental Document Requests.

10. In August 2013, I spoke with counsel for Defendants regarding the scheduling of the depositions of Plaintiff and her husband.
11. Additionally, on or about August 14, 2013, I sent out Notices of Deposition for three District witnesses: Former Superintendent Lynn Pombonyo, Current Superintendent James Opiekun, and Superintendent Secretary Millie Del Greco. The witnesses were scheduled to be deposed on September 20, 2013, and September 24, 2013.
12. On August 27, 2013, after numerous email correspondence, counsel for both parties confirmed that Plaintiff and her husband's depositions would take place on September 18, 2013, and September 19, 2013, respectively.
13. On September 16, 2013, two days prior to Plaintiff's scheduled deposition, counsel for Defendants called me and requested that the depositions of Plaintiff and husband be postponed. Specifically, counsel for Defendants stated that Defendants were in the process of gathering and producing an additional set of discovery documents, which would likely be voluminous.
14. Given the additional documents to be produced, I agreed to reschedule Plaintiff's deposition for September 24, 2013; the date in which Superintendent Opiekun was originally scheduled to be deposed.

15. On September 20, 2013, Defendants served upon Plaintiff an additional 331 documents. Plaintiff was deposed on September 24, 2013.
16. On September 23, 2013, I attempted to obtain the availability of District witnesses prior to the September 30, 2013 discovery deadline. I also made counsel for Defendants aware that I was scheduled to commence a trial in U.S. District Court before Hon. Judge Spatt in the matter of *Hughes v. Kevin Anderson, et al* (09-CV-4042) on October 7, 2013.
17. Counsel for Defendants informed me that District witnesses would not be available prior to the September 30, 2013 discovery deadline. As a result, on September 27, 2013, the parties requested an additional 30 days to complete discovery. The request was granted by the Court.
18. On October 2, 2013, due to the shutdown of the federal government, the trial in the *Hughes* case was postponed until October 15, 2013. That day, I emailed counsel for Defendants and proposed deposing the District witnesses on October 4, 2013, or October 8, 2013. On the following day, I proposed an additional date – October 12, 2013, to conduct the depositions.
19. On October 7, 2013, I followed up again, and stated that if need, be, I could do the depositions of District witnesses on October 11, 2013.

20. Counsel for Defendants responded by stating he was working with the District witnesses, but that I would “probably have to free up some time after the 15th to get these done.”
21. On October 10, 2013, again due to the government shutdown, the *Hughes* trial was postponed until October 21, 2013.
22. On October 11, 2013, I informed counsel for Defendants of the trial’s postponement, and stated that I was available to conduct the depositions on October 14, October 15, October 16, and October 17, 2013.
23. Four days later, on October 15, 2013, counsel for Defendants responded by stating that he was trying to coordinate everybody’s schedule, but did not have any certain dates.
24. After another series of emails, counsel for the parties finally agreed on October 25, 2013 as the date for the depositions of the remaining District witnesses.
25. The depositions of the remaining witnesses were conducted while I was on trial in the *Hughes* matter. However, because Judge Spatt does not hold trial on Fridays, I was able to depose the witnesses on October 25, 2013.

26. The *Hughes* trial concluded on October 31, 2013.

B. Annexed Exhibits

27. Annexed hereto, and incorporated herein as “Plaintiff’s Exhibit A” is a copy of Plaintiff’s Complaint, which was filed with this Court on November 16, 2012.

28. Annexed hereto, and incorporated herein as “Plaintiff’s Exhibit B” is a copy of Plaintiff’s Proposed Amended Complaint.

29. Annexed hereto, and incorporated herein as “Plaintiff’s Exhibit C” is a copy of the letter sent to counsel for Defendants regarding outstanding discovery, dated May 20, 2013.

30. Annexed hereto, and incorporated herein as “Plaintiff’s Exhibit D” is a copy of the letter sent to counsel for Defendants regarding outstanding discovery, dated June 3, 2013.

31. Annexed hereto, and incorporated herein as “Plaintiff’s Exhibit E” is a copy of Defendants’ Response to Plaintiff’s Interrogatories, dated June 19, 2013.

32. Annexed hereto, and incorporated herein as “Plaintiff’s Exhibit F” is a copy of the letter sent to counsel for Defendants regarding outstanding discovery, dated July 1, 2013.


33. Annexed hereto, and incorporated herein as “Plaintiff’s Exhibit G” is a copy of the Hon. Judge Tomlinson’s Order, dated August 5, 2013, regarding discovery.
34. Annexed hereto, and incorporated herein as “Plaintiff’s Exhibit H” is a copy of the Notices of Deposition sent to counsel for Defendants, scheduling District witnesses Lynn Pombonyo, James Opiekun, and Millie Del Greco.
35. Annexed hereto, and incorporated herein as “Plaintiff’s Exhibit I” is a copy of emails exchanged by counsel for both parties between during September and October 2013, regarding the scheduling of District witnesses.
36. Annexed hereto, and incorporated herein as “Plaintiff’s Exhibit J” is a copy of the relevant portions of the deposition transcript of Patsy Joinnides, taken September 24, 2013.
37. Annexed hereto, and incorporated herein as “Plaintiff’s Exhibit K” is a copy of the relevant portions of the deposition transcript of James Opiekun, taken October 25, 2013.
38. Annexed hereto, and incorporated herein as “Plaintiff’s Exhibit L” is a copy of the New York State Comptroller’s Report of Examination of the Financial Management of the Floral Park-Bellerose Union Free School District, covering

July 1, 2011 to June 30, 2013. The report was first made available in February 2014, and is Bates Stamped 355-368.

39. Annexed hereto, and incorporated herein as "Plaintiff's Exhibit M" is a copy of Plaintiff's Discovery Demands, dated February 11, 2013.
40. Annexed hereto, and incorporated herein as "Plaintiff's Exhibit N" is a copy of an email from CBAC Committee Chairperson to Plaintiff, dated May 3, 2012, Bates Stamped 782-783.
41. Submitted herewith, and referenced herein as "Joinnides Decl." is the Sworn Declaration of Plaintiff Patsy Joinnides, dated January 16, 2014, which was served upon Defendants with Plaintiff's Rule 56.1 Counterstatement of Facts on or about January 17, 2014.
42. Upon the pleadings, exhibits, and declarations submitted herein, and for the reasons set forth in the accompanying Memorandum of Law, Plaintiff's Motion to Amend the Complaint should be granted, and Plaintiff should be awarded such other relief that this Court deems just and proper.

Respectfully Submitted,

Dated: April 23, 2014
Garden City, NY


Joshua Beldner
The Law Office of Steven A. Morelli, P.C.
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